

FIGURE AMENDMENTS:

Kindly enter the enclosed marked-up copies of the figure amendments for review by the Official Draftsperson. Formal drawings will be filed upon issuance.

Remarks

The drawings have been objected to for various reasons as indicated by the Official Draftsperson review. Responding thereto, the specification and the drawings have been amended to address these objections. Review and acceptance is requested.

Claims 1, 3 through 9, 18 and 19 stand rejected under 35 USC 102(e) as being anticipated by Hofmann et. al. '079. Claims 1, 3 through 9, 18 and 19 also stand rejected under 35 USC 102(a) and (e) as being anticipated by Hofmann et. al. with regard to US publication '023 of December 26, 2002. Claim 2 stands rejected under 35 USC 103(a) as being unpatentable over Hofmann '079 as well as US application publication '023. Claims 1 through 4, 8, 10 through 17, and 20 stand rejected under 35 USC as being unpatentable over Fattinger, US publication '091.

In responding to these rejections, the Applicant has amended claim 1 to make the recitations more precise. In particular, claim 1 has been amended to clearly recite a groove present in the outer surface of the sample bushing. The former recitation "within an outer periphery" could be interpreted as "radially inward from an outer periphery" which could read on an inner groove. In order to eliminate this possibility, the language has been changed to explicitly recite a groove fashioned in the outer surface of the sample bushing. Similarly, the gripping device has been claimed such that the three gripping fingers are not "structured to" engage the groove rather actually engage the groove. With these changes, the Applicant respectfully submits that claim 1 is sufficiently distinguished from the prior art of record for the reasons given below.

With regard to US '079 and '023, this patent discloses a sample tube which does not have an associated bushing into which it is permanently clamped and which has at least one outer groove for a gripping device. Rather, the gripping device of the '079 patent directly contacts the sample tube. This type of the device is poorly suited for operation with an automatic sample changer. The absence of a bushing in the sense of the invention as now claimed, which belongs to an associated sample tube and which is directly attached thereto, prohibits the assignment of a code on the top surface of a bushing to characterize the contents of the sample tube (see amended Fig. 2b of the instant invention). The Applicant notes that the Examiner has interpreted the outer threads of the plunger 3c' of Fig. 3b or the outer threads of the clamping device of Fig. 3a to read on the outer groove of the sample bushing as claimed. However, the new claim language clarifies the fact that the gripping fingers must engage the outer groove of the sample bushing. This is clearly not the case for either Fig. 3a or 3b, since the gripping fingers of the '079 patent do not engage the outer groove of the bushing rather act directly on the sample tube itself. Therefore, Hofmann fails to anticipate the invention as now claimed.

Referring now to US '091, this patent publication discloses a sample tube having an attached bushing 11. The bushing also has an outer groove 57. However, this groove serves a different function than the one of the instant invention, since the '091 groove holds the sample tube and bushing in a rack 21 and does not cooperate with the gripping device 50. The bushing 11 has an axial bore in which an internal groove is fashioned. This internal groove has a function similar to the outer groove

of the invention as now claimed and cooperates with a gripping member 54 of an associated gripping device 50. However, this inner groove cannot provide motivation to one of average skill in the art for the outer groove in accordance with the instant invention, since the inner groove necessitates an axial bore within the bushing such that the bushing is no longer capable of having a recognition code on an upper surface, as is important for automatic NMR measurements in accordance with the invention. Therefore, the '091 publication teaches away from the invention as now claimed, since the inventive gripping fingers engage a groove fashioned in the outer surface of the sample bushing, whereas '091 teaches a gripping device which engages a groove in an inside bore of the bushing.

The invention as now claimed facilitates the application of labeling onto the upper surface of the bushing while nevertheless permitting exchange of the samples in automated operation. None of the prior art of record suggests the structural limitations of the invention as now claimed, nor the advantages associated therewith. For these reasons, the Applicant respectfully submits that the invention is sufficiently distinguished from the prior art of record to satisfy all conditions for patenting in the United States. The dependent claims of record inherit the limitations of the base claim and are therefore similarly distinguished from the prior art of record for the reasons given. Favorable review and passage to issuance is therefore respectfully requested.

No new matter has been added in this amendment.

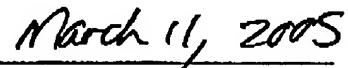
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Date

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